

**BEFORE THE APPEALS BOARD  
FOR THE  
KANSAS DIVISION OF WORKERS COMPENSATION**

**CHRISTOPHER L. TURTON**

Claimant

VS.

**ARMOUR SWIFT-ECKRICH**

Respondent

Self-Insured

)  
)  
)  
)  
)  
)  
)

Docket Nos. 1,000,882  
& 1,001,594

**ORDER**

Claimant appeals the August 20, 2003 Award of Administrative Law Judge Bryce D. Benedict. Claimant alleges entitlement to a permanent partial general disability based upon a whole body functional impairment and a resulting work disability in Docket No. 1,000,882, for a series of injuries occurring through November 26, 2001. Respondent contends that claimant is limited to two scheduled injuries, suffering injuries to the left upper extremity through November 26, 2001, in Docket No. 1,000,882. The right upper extremity impairment resulted from an injury on December 27, 2001, in Docket No. 1,001,594. The Appeals Board (Board) heard oral argument on March 30, 2004.

**APPEARANCES**

Claimant appeared by his attorney, Jeff K. Cooper of Topeka, Kansas. Respondent appeared by its attorney, Mark E. Kolich of Lenexa, Kansas.

**RECORD AND STIPULATIONS**

The Board has considered the record and adopts the stipulations contained in the Award of the Administrative Law Judge.

**ISSUES**

- (1) What is the nature and extent of claimant's injuries and/or disability?
- (2) In which docketed claim and to which date of accident do the appropriate temporary total disability compensation payments apply?

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Having reviewed the entire evidentiary file contained herein, the Board finds the Award of the Administrative Law Judge should be affirmed.

The Award sets out findings of fact and conclusions of law in some detail and it is not necessary to repeat those herein. The Board adopts those findings and conclusions as its own.

With regard to the issue dealing with temporary total disability compensation, the Board affirms the finding by the Administrative Law Judge. While the parties argue that stipulations were taken and agreed to, it is noted that at the regular hearing, the parties first agreed to the temporary total disability payments being applied to the second accident, followed shortly thereafter by an agreement that it should, instead, be applied to the first accident.<sup>1</sup> The Administrative Law Judge found that the parties were unsure for which docketed claim this temporary total disability was paid and applied the entire amount to Docket No. 1,001,594. The Board finds the Administrative Law Judge's finding is supported by the record and affirms same.

With regard to the nature and extent, the Board finds claimant suffered two separate scheduled injuries. The series of accidents involving the left upper extremity ended November 26, 2001, and was followed by a specific traumatic incident to the right hand on December 27, 2001.

While claimant did have bilateral complaints early on, he was returned to work full duty with no restrictions on October 22, 2001, October 29, 2001, and November 26, 2001. It is also significant that in October of 2000, claimant underwent an EMG, indicating possible left ulnar nerve difficulties, but showing the right side to be within normal limits. The Board finds that claimant's left upper extremity problems culminated in a series of accidents ending November 26, 2001, with the right upper extremity problems resulting from the December 27, 2001 traumatic accident. Therefore, the determination by the Administrative Law Judge that this award consists of two scheduled injuries is affirmed.

**AWARD**

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the Award of Administrative Law Judge Bryce D. Benedict dated August 20, 2003, should be, and is hereby, affirmed.

---

<sup>1</sup> R.H. Trans. at 5-6.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of April 2004.

---

BOARD MEMBER

---

BOARD MEMBER

---

BOARD MEMBER

c: Jeff K. Cooper, Attorney for Claimant  
Mark E. Kolich, Attorney for Respondent  
Bryce D. Benedict, Administrative Law Judge  
Paula S. Greathouse, Workers Compensation Director